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Illinois Commerce Commission
e-Tariff Filing System Workshop Process
Staff First Workshop Comments

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I. INTRODUCTION

The first pre-rulemaking workshop to discuss the Commission's proposed e-Tariff filing system, held September 23, 2016, identified the following topics for further comment and discussion:

1. Tariff withdrawal
2. Filing date/acceptance date/effective date of electronically filed tariffs
3. Tariff signature
4. Internal user account rule language
5. Accepted filings

The below comments briefly address these topics, as well as additional miscellaneous issues. An attached redline version of Staff's proposed e-Tariff rule reflects proposed modifications to the rule as outlined in these comments.

In presenting these comments, Staff emphasizes that the e-Tariff system as designed contemplates few, if any changes, to the requirements and processes currently in place for tariff filings. Staff envisions the e-Tariff system to be primarily a change only in the method of filing tariffs.

II. COMMENTS

A. Tariff Withdrawal

The questions on this issue centered on whether tariff withdrawals were permitted, and if so whether additional language was necessary to clarify how this would be done. Staff notes that withdrawals will be accepted in the same manner as under the current process, with utilities submitting letters. In Staff's opinion, the current rule language, which provides that filings must indicate any tariff changes and

information necessary to facilitate understanding of the affected tariff, is sufficient to encompass tariff withdrawals.

B. Filing date/acceptance date/effective date

The primary question on this issue was when an electronically filed tariff is considered “accepted” for purposes of determining the effective date of the tariff. The rule specifies that submission of the tariff does not constitute acceptance of the tariff, and the tariff is not accepted until the Chief Clerk’s office designates the tariff as accepted. Tariffs designated as accepted by the Chief Clerk’s office as of 5 p.m. Illinois time are considered accepted as of that date. Tariffs designated as accepted as of or after 5 p.m. Illinois time will be considered accepted as of the next scheduled business day.

Staff notes that this is the same as the current process for filing paper tariffs. Under this process, tariff filings that come into the Chief Clerk’s office have an effective date listed on the pages. The Chief Clerk’s office verifies that the effective date listed on the pages correctly reflects the accepted date that the Chief Clerk’s office stamps on the tariff pages. For example, a 45 day tariff that lists an effective date of November 15, 2016 must be stamped as accepted by the Chief Clerk’s office on or before October 1, 2016.

Because the rule language is clear when a tariff is deemed accepted, and the requirements remain the same regardless of the filing method (i.e., electronic vs. written), Staff believes no further modifications to the rule language are necessary.

C. Tariff Signature

This issue centered on whether a “/s” electronic signature of the representative of the public utility on a tariff will be accepted, or whether a “wet signature” will be required. At this time, a wet signature will be required because of the setup of the current e-Tariff system; however, Staff will evaluate system enhancements that would allow for the use of electronic signatures in the future. Staff believes the rule language is sufficiently flexible to permit use of electronic signatures in the future.

One potential ambiguity related to the issue of electronic signatures was raised at the workshop: Subsection (g) of the “Electronic Tariff Filing Accounts” section of the rule states in reference to the external user account user name and password that these can be traced to a tariff as if the tariff were signed, and that this “shall serve as an electronic signature on those filings.” It was noted that it might not be entirely clear the difference between this electronic signature and the tariff signature required under subsection (b)(3) of the “Required Information” section. To remove any potential confusion, Staff proposes to modify the language in subsection (g) of the “Electronic Tariff Filing Accounts” section to read: “... as if the ~~tariff-filing~~ were signed. This shall serve as an electronic signature of the authorized user on those filings.”

D. Internal User Account

Subsection (b) of the “Electronic Tariff Filing Accounts” section provides that: “A notarized and completed ICC external user account application must be hand-delivered or mailed to the Chief Clerk’s Office in accordance with the instructions provided on the form.” This reflects the instructions already contained on the form, which requires a written notarized affidavit and delivery to a mailing address. Staff notes that it is possible that these instructions may change in the future, including possible acceptance

of electronic versions of these applications. Accordingly, Staff proposes to modify this language as follows: “A ~~notarized and~~ completed ICC external user account application must be ~~hand-delivered or mailed~~ to the Chief Clerk’s Office in accordance with the instructions provided on the form.”

Workshop stakeholders also asked whether instructions for the revocation of existing user accounts should be included in the rule. Staff believes the rule is clear that the Chief Clerk’s Office should be contacted immediately to request revocation of a user account, and no further language is necessary.

E. What Filings are Accepted

Stakeholders discussed whether the rule is sufficiently clear as to what filings are accepted with the e-Tariff system, and whether a definition of tariff or some other language defining scope are necessary. Further, assuming a definition or other language was deemed necessary, what language would be flexible enough to encompass the intended filings without becoming overly inclusive, and conversely, would not become an inflexible laundry list of accepted filings.

Staff emphasizes that the same tariff filings that are currently accepted by the Chief Clerk’s Office (without further definition), and posted daily under the Tariff Filings section of the ICC’s website (with the exception of telecommunications tariff filings), will continue to be accepted via the e-Tariff system. It is unclear why a definition would now be necessary to accept these filings. Further, Staff believes any definition is more likely to either create confusion or disputes about what filings will be accepted via the e-Tariff

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system, or render the rule too inflexible. Staff recommends instead contacting the Chief Clerk's Office to discuss any filings which are of concern.

F. Miscellaneous

At the workshop, it was noted that the use of CST (Central Standard Time) in subsection (e) of the "Submission of Tariffs Electronically" section did not account for the observation of Daylight Savings Time. Staff proposed substituting "Illinois local time" for "CST." No objection was raised to Staff's proposal.

It was also noted that while there is a definition for "Schedule" contained in the "Definitions" section, the term schedule is not used anywhere in the rule. Therefore, Staff proposes to delete this definition.